

REMARKS

Claim Amendments

Claims 1, 4, 5, 9, and 21 are amended. Support for these amendments may be found throughout the specification and in the claims as originally filed. Applicants respectfully requests entry of the above amendments to the claims and submit that the above amendments do not constitute new matter.

Election

Applicants hereby provisionally elect **Group I** (claims 1-9, 14-16, 20, and 21), drawn to a plant cell, a method for generating a genetically modified plant, a plant, propagation material of plants and a method of modifying the starch of a plant comprising altering the activity of starch biosynthetic enzymes **with traverse**. Applicants reserve the right to file divisional application(s) directed to non-elected subject matter.

Restriction Requirement

The Restriction Requirement required restriction to one of three Groups I-III, provided *infra*, which are purportedly distinct inventions under 35 U.S.C. § 121. The Restriction Requirement requires Applicants elect one of the following three (3) allegedly distinct inventions:

- Group I: Claims 1-9, 14-16, and 20-21, drawn to a plant cell, a method for generating a genetically modified plant, a plant, propagation material of plants and a method of modifying the starch of a plant comprising altering the activity of starch biosynthetic enzymes.
- Group II: Claims 10-11, 13, and 17-18, drawn to a starch.
- Group III: Claims 12 and 19, drawn to a method for producing starch comprising extracting starch from a plant.

Applicants respectfully request reconsideration of the restriction requirement in view of the following remarks.

According to PCT Rule 13.2, unity of invention exists between groups of inventions when there is a technical relationship among the claimed inventions involving one or more of the same corresponding special technical features.

The Restriction Requirement asserts that the technical feature of Groups I-III is altered starch characteristics via the modification of plants leading to the altered expression of starch biosynthetic enzymes. The Office Action asserts that U.S. Patent No. 6,468,799 (“the ‘799 patent”) teaches the special technical feature of claim 1.

Applicants respectfully disagree. The special technical feature of claim 1 is a genetic modification which leads to the reduction of the activity of one or more endogenous SSIII, BEI, and BEII proteins in a plant cell wherein the genetically modified plant cell synthesizes a modified starch as described in claim 1. This special technical feature is shared by all three Groups. Indeed, Group I is drawn to a genetically modified plant cell which synthesizes the modified starch as described in claim 1, Group II is drawn to the modified starch obtained from claim 1, and Group III is drawn to a method for producing the modified starch by extracting it from a plant producing the starch described in claim 1.

The ‘799 patent does not teach the technical feature of claim 1. In particular, the ‘799 patent does not teach genetically modifying a plant cell to reduce the activity of one or more endogenous SSIII, BEI, and BEII proteins. Rather, the ‘799 patent discloses genetically modified enzyme involved in the synthesis of microbial glycogen (i.e., glycogen synthase) in cereal crops (i.e., wheat and maize). See Col. 2 lines 6-45. Accordingly, the ‘799 patent does not teach the special technical feature of claim 1.

Since the special technical feature shared by Groups I, II, and III is novel, there is no lack of unity. Rejoinder of Groups I, II, and III and examination of claims 1-21 is respectfully requested.

In light of the above, Applicants respectfully request that the restriction requirement be withdrawn and that all claims be prosecuted in the same patent application. In the event the requirement is made final, and in order to comply with 37 C.F.R. § 1.143, Applicants reaffirm the election **with traverse** of Group I (claims 1-9, 14-16, and 20-21), holding claims 10-13 and 17-19 in abeyance under the provisions of 37 C.F.R. § 1.142(b) until final disposition of the elected claims.

CONCLUSION

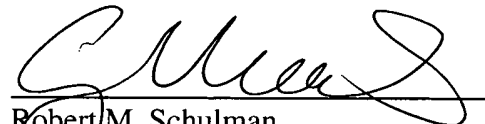
Applicants maintain that the restriction requirement is improper and that all pending claims, *i.e.*, claims 1-21, should be examined. If the Examiner believes that prosecution might be advanced by discussing the application with Applicants' representatives, in person or over the telephone, Applicants welcome the opportunity to do so.

Respectfully submitted,

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